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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GIBSON GUITAR CORP.
309 Plus Park Blvd.
Nashville, Tennessee 37217

Petitioner

v.

J. D'ADDARIO & CO., INC.
595 Smith Street
Farmington, New York 11735

Registrant

03-18-2004

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #78

Cancellation No. 92041175

Trademark Registration
No. 2,554,111 for EXP Coated

**PETITIONER'S RESPONSES TO REGISTRANT'S FIRST REQUEST FOR
THE PRODUCTION OF DOCUMENTS**

Petitioner Gibson Guitar Corp. ("Gibson") object to this and all discovery requests to the extent that it calls for information protected by the attorney client privilege or by the work product exception.

Gibson further objects to this and all discovery requests to the extent that it places burdens upon plaintiffs that extend beyond those required under the federal rules of civil procedure.

Without waiving any general objection, Gibson responds as follows:

REQUESTS

1. All documents referring or relating to Registrant.

Response: Given that in response to a similar request, Registrant objected as being unduly burdensome, Gibson makes the same objection until the objection is withdrawn by Registrant. Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

2. All documents referring or relating to Petitioner's first use of "EXPLORER."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

3. All documents which refer or relate to the sales of all products and services displaying the "EXPLORER" mark is used.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce exemplary responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

4. All documents sent to or received from the U.S. Patent and Trademark Office regarding attempts to register any mark containing the term "explorer."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

5. All documents provided to or received from any expert witness.

Response: No expert witness has been retained.

6. All searches relating to the "EXPLORER" mark.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

7. All documents referring or relating to Petitioner's "EXPLORER" trademark application(s).

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

8. All documents referring or relating to the selection of the "EXPLORER" trademark by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

9. All documents referring or relating to the decision to apply for registration of the "EXPLORER" trademark by Registrant.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

10. All documents referring or relating to third party users of any mark containing the term "explorer."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

11. All documents referring or relating to any allegation contained in the Petition to Cancel.

Response: Gibson objects to this request on the grounds that it is vague. Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

12. All documents referring or relating to any trademark applications filed in the United States to protect any trademark containing the term "explorer."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

13. All documents referring or relating to any market studies, surveys, and/or evaluations for the mark "EXPLORER" in connection with musical instruments.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

14. All documents referring or relating to Gibson's "EXPLORER" guitar.

Response: Gibson objects to this request on the grounds that it is vague. Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce exemplary responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

15. All documents referring or relating to discussion of the term "explorer" or mark EXPLORER in marketing and advertising by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce exemplary responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

17. All documents referring or relating to Petitioner's first use of the mark "EXP."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

18. All documents which refer or relate to the sales of all products and services with which the term "exp" or the mark EXP is used.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce exemplary responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

19. All documents referring or relating to the meaning of the mark EXP or the term "exp" in connection with musical instruments.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

20. All documents sent to or received from the U.S. Patent and Trademark Office regarding attempts to register any mark containing the term "exp."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

21. All searches relating to the "EXP" mark.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document.

Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

22. All documents referring or relating to any trademark application(s) and/or registration(s) containing the term "exp" or the mark EXP.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

23. All documents referring or relating to the selection of the "EXP" trademark by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

24. All documents referring or relating to the decision to apply or not to apply for a registration of the "EXP" trademark by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

25. All documents referring or relating to third party users of any mark containing the term "exp."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

26. All documents referring or relating to any trademark applications filed in the United States to protect any trademark containing the term "exp."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

27. All documents referring or relating to any market studies, surveys, and/or evaluations for the mark "EXP" in connection with musical instruments.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

28. All documents referring or relating to discussion of the term "exp" in marketing and advertising by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

29. All documents referring or relating to Petitioner's first use of the mark "EX."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

30. All documents which refer or relate to the sales of all products and services with which the term "ex" and/or the mark EX is used.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce exemplary responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

31. All documents referring or relating to the meaning of the mark "EX" or the term "ex" in connection with musical instruments.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

32. All documents sent to or received from the U.S. Patent and Trademark Office regarding attempts to register any mark containing the term "ex."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

33. All searches relating to the "EX" mark.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

34. All documents referring or relating to any trademark application(s) and/or registration(s) containing the term "ex" or the mark EX.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document.

Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

35. All documents referring or relating to the selection of the "EX" trademark by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

36. All documents referring or relating to the decision to apply or not to apply for a registration of the "EX" trademark by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

37. All documents referring or relating to third party users of any mark containing the term "ex."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

38. All documents referring to any trademark applications filed in the United States to protect any trademark containing the term "ex."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

39. All documents referring or relating to any market studies, surveys, and/or evaluations for the mark "EX" in connection with musical instruments.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

40. All documents referring or relating to discussion of the term "ex" in marketing and advertising by Petitioner.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce exemplary responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

41. All documents identified in Petitioner's Answers to Registrant's Interrogatories.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

42. All documents and things referring or relating to any opposition, cancellation proceeding or infringement actions involving the marks "EXPLORER", "EXP" and/or "EX."

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

43. All search reports for the marks "EXPLORER", "EXP" and/or "EX" either alone or combined with other words or phrases, and all documents referring or relating to such search reports including any opinions relating thereto.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

44. All documents and things referring or relating to any assignment, license, franchise or other agreement relating to Petitioner's marks "EXPLORER", "EXP" and/or "EX", either alone or combined.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

45. All documents and things referring or relating to the subject matter, facts or circumstances as to each expert employed by Petitioner in connection with this cancellation or in connection with other oppositions, cancellation proceedings and/or infringement actions relating to the marks "EXPLORER", "EXP" and/or "EX", either alone or combined with other words and phrases.

Response: Gibson has yet to retain an expert in this matter.

46. A sample of each different product, label, package, container, brochure, price list, stationery, advertisement, article and promotional item referring to the terms or marks "EXPLORER", "EXP" and/or "EX", either alone or combined with other words and phrases.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce exemplary

responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

47. All marketing plans, marketing projections or other marketing, market share or sales approach documents relating to Petitioner's products sold in connection with which the terms or marks "EXPLORER", "EXP" and/or "EX", either alone or combined with other words and phrases.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

48. All documents embodying or evidencing or relating to any objections that Petitioner has made or considered making to any person or company relating to the use of the terms or marks "EXPLORER", "EXP" and/or "EX", either alone or combined with other words and phrases.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

49. Each file history of Petitioner's federal and state registrations and pending applications for registration of the marks "EXPLORER", "EXP" and/or "EX",

either alone or combined with other words and phrases, and any correspondence relating thereto.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

50. All documents or correspondence which relate to the ownership, acquisition or licensing of the marks "EXPLORER", "EXP" and/or "EX", either alone or combined with other words and phrases:

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

51. Each file history obtained by Petitioner of any federal or state registration or application for registration of a mark which uses the term "EXPLORER", "EXP" and/or "EX", either alone or combined with other words and phrases, and all correspondence relating thereto.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

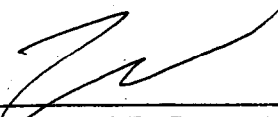
52. All documents which evidence or relate to any survey that Petitioner has conducted or engaged another to conduct relating to the terms or marks "EXPLORER", "EXP" and/or "EX", either alone or combined with other words and phrases.

Response: Given that no documents have been produced by Registrant, Gibson will produce no documents until Registrant has produced its responsive document. Without waiving any general or specific objection, Gibson will produce responsive and non-objectionable documents at a time and place to be agreed upon by the parties.

53. All documents comprising writings, recordings, and/or photographs relating to any chart, summary or calculation that Petitioner reasonable expects to move into evidence or introduce through testimony in this proceeding through F.R. Evid. 1006.

Response: No such documents have bee anticipated.

Respectfully submitted,



Edward D. Lanquist, Jr.
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
Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing responses to requests for the production of documents has been sent to:

Gerald T. Bodner, Esq.
Thomas A. O'Rourke, Esq.
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville, New York 11747

by U.S. Mail- First Class, postage prepaid, this the 14 day of Feb, 2003.



Edward D. Lanquist, Jr.
Reg. No. 33,729